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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,002	08/16/2005	Richard Wade	2859-1-001PCT/US	9394
23565	7590	02/01/2010		
KLAUBER & JACKSON 411 HACKENSACK AVENUE HACKENSACK, NJ 07601			EXAMINER MAZUMDAR, SONYA	
			ART UNIT	PAPER NUMBER
			1791	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,002

Applicant(s)

WADE, RICHARD

Examiner

SONYA MAZUMDAR

Art Unit

1791

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 14, 2009 has been entered.

Response to Arguments

2. Applicant's amendments and arguments, see pages 2 and 5, filed December 14, 2009, with respect to the rejections of claims 1, 2, and 5, 6, and 8-12 under 35 USC 103(a) in view of Boreali (US 5,573,621) and Bekker-Madsen (US 5,112,427) have been fully considered and the rejections have been withdrawn. However, upon further consideration, a new ground of rejection is made in view of Boreali (US 5,573,621) and Jeffries (US 3,880,692).

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 2, 5, 6, 8, 10, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boreali in view of Jeffries.

With respect to claim 1, Boreali teaches a method of separating linerless, adhesive labels on a single layer label matrix web (17), where labels (11), with an

adhesive surface (14) and an opposing release surface (13), are disposed at spaced intervals. The label boundaries are defined in the web by lines of cutting passing through the web, leaving the defined label connected to the remainder of the web by catch points (12). To remove the labels, the web is fed around a guide member (22), without damaging the label and such that the adhesive surface of the label does not face the guide. The leading edge of each label protrudes out of the plane of the web and this protruding edge forms a means whereby the remainder of the label can be extracted from the web by breaking the catch points (column 3, column 4, lines 12-24; Figures 4 and 5). On a side note, multiple catch points may be provided around each label, depending on the configuration, so all catch points will not be broken until the label is fully removed from the web (column 3, lines 53-61).

Boreali does not specifically teach providing labels in a single-layer web in spaced intervals; however, it would have been obvious for one having ordinary skill in the art to do so, as Jeffries teaches providing many types of label webs for application, especially a label web (60) having a web remnant (61) which extends around labels (L), where the labels are supported within the web by "nicks" (i.e. catch points), to prevent use of a backing which would be extra waste material (column 5, line 61 – column 6, line 15; Figure 6).

Boreali teaches placing labels onto a conveyor belt, conveyor bottom rollers, conveying slats, conveying chains, toothed wheels, or a wide variety of other mechanisms as the conveying means (column 4, lines 7-11). However, there is no specific teaching of placing the labels directly onto the surface of a product container.

Jeffries teaches a method of applying adhesive labels (22) directly onto target products (T) after separation from a web (60) (column 4, lines 23-30; Figures 2 and 5).

Furthermore, claim 1 discloses using an applicator of "the same function and operation as the conventional beak of conventional application machinery" (lines 5 and 6). Thus, as stated above, it would have been obvious to have the adhesive surfaces of the labels on a single web contact and adhere to the product, to avoid extra costs of a separate backing material.

With respect to claim 2, Boreali in view of Jeffries teach leading edges of labels to be sufficiently devoid of holding points to ensure that it will reliably protrude from a matrix web (17) when it passes around the guide (22) (Boreali: Figure 5).

With respect to claims 5, 10, 11, and 12, Jeffries teach applying adhesive to a single layer-web of labels, in which the labels are further detached from the web (column 6, lines 6-52; Figure 5), and it would have been obvious to apply adhesive to labels before being detached from a web to prevent adhesive accumulation in the apparatus (abstract).

With respect to claim 6, Boreali in view of Jeffries teaches labels with a first surface, opposite the adhesive surface, to act as a release material (Boreali: column 3, lines 44-51).

With respect to claim 8, Boreali teaches applying labels which are self-adhesive (Boreali: abstract).

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boreali in view of Jeffries, as applied to claim 2 above, and further in view of West et al. (US 5,275,678)

The teachings of claim 2 are as described above.

Boreali in view of Jeffries does not teach a water application station to wet adhesive on a label prior to application product containers. However, West et al. teach applying water via a water application means (17) to labels (15) with adhesive glue strips (20) prior to applying the labels onto containers (18) (column 5, lines 66 – column 6, line 5; Figures 1 and 2). It would have been obvious to apply water onto an adhesive portion of the label as West et al. taught and would have been motivated to do so to prevent adhesive accumulation in an apparatus and residue on a container's surface (column 4, lines 51-60).

6. Claims 7, 13, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bekker-Madsen in view Osaka (US 6,030,482).

Bekker-Madsen teach self-adhesive labels (8) on a single web (2) to be applied to products (13), where the labels are spaced out on the web and the labels are defined in a web by punching sections (44, 45, 46, 47) are bridges (73, 74, 75, and 76) (column 4, lines 44-53; Figures 8 through 13).

Bekker-Madsen does not teach providing labels with silicon applied to a first surface of a label to act as a release material. However, Osaka teaches it would have been obvious to one having ordinary skill in the art to apply a silicone release agent (18) over a printed layer (20) on a label, in a case where the label web is rolled up and

surfaces do not stick to each other (column 2, lines 33-38; column 10, lines 43-47; Figure 1b).

If the body of a claim fully and intrinsically sets forth all of the limitations of the claimed invention, and the preamble merely states, for example, the purpose or intended use of the invention, rather than any distinct definition of any of the claimed invention's limitations, then the preamble is not considered a limitation and is of no significance to claim construction. *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165 (Fed. Cir. 1999).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SONYA MAZUMDAR whose telephone number is (571)272-6019. The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Tucker can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sonya Mazumdar/
Patent Examiner, Art Unit 1791